

**Amendment and Response**

Applicant: Adam Grablick

Serial No.: 10/662,769

Filed: September 15, 2003

Docket No.: G180.148.101 / 6226US

Title: CONSUMER PRODUCT DISPLAY

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**REMARKS**

The following remarks are made in response to the Non-Final Office Action mailed December 29, 2005 ("the Office Action"). Claims 1-4, 25, and 26 were rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over, European Patent No. 0 560 374 A2 ("Koster"). Claims 5-10 and 15-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over Koster as applied to the claims above, and further in view of U.S. Patent No. 3,389,784 ("Hendricks"). Claims 12 and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Koster as applied to the claims above, and further in view of U.S. Patent No. 3,458,037 ("Larson").

With this Response, claims 1, 14-16, and 22 have been amended, claim 37 added, and claims 27-36 cancelled without prejudice. Claims 1-26 and 37 are presented for consideration and allowance.

**Restriction Requirement**

The restriction requirement mailed October 28, 2005 has been made final in the Office Action. It is respectfully noted that at page 2 of the Office Action it is indicated that claims 1-26 are withdrawn from consideration, but form PTOL-326 indicates that claims 27-36 are withdrawn from consideration. In a response to the restriction requirement mailed October 28, 2005 the Applicant elected Group I (claims 1-26) with traverse. As such, it is believed that the indication on page 2 of the Office Action is incorrect, and rather that form PTOL-326 is in accordance with the Examiner's intent.

With this Response, claims 27-36 have been cancelled without prejudice.

**35 U.S.C. §§ 102, 103 Rejections**

Claims 1-4, 25, and 26 stand rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Koster. Claim 1 as amended relates, in part, to a consumer product display including a display strip and a plurality of consumer products. The display strip defines a front face and a back face

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which combine to form a lower section and an upper section. The upper section defines a hanging means. The lower section of the front face is characterized by a non-adhesive layer and an exposed adhesive recessed relative to the non-adhesive layer. The non-adhesive layer is formed of a material including at least one of sheet paper and sheet plastic. Each of the plurality of consumer products is separately and removably adhered to the lower section of the front face via the exposed adhesive. For at least the following reasons, the cited references fail to teach or suggest such limitations.

With reference to the cross-sectional view of FIG. 3 of Koster, it can be clarified that adhesive 2 protrudes away from the backing 1 of Koster with rectangular boxes 5 secured to adhesive 2 and spaced from backing 1. Koster clearly solves the problem of supporting rectangular boxes 5 by having protruding adhesive 2, and not exposed adhesive that is recessed relative to a non-adhesive layer as required by the limitations of claim 1 as amended. Indeed, by expressly showing adhesive 2 protruding outwardly away from backing 1, Koster fails to teach or suggest and, in fact, teaches away from the limitations of claim 1 relating to exposed adhesive that is recessed relative to a non-adhesive layer. As Koster fails to teach each and every element of claim 1 as amended, and one having ordinary skill in the art would not be motivated to modify Koster to incorporate such limitations, the rejections of claim 1 as amended under 35 U.S.C. §§ 102 and 103 are believed traversed. Withdrawal of the rejections, allowance of claim 1 as amended, and notice to that effect are respectfully requested.

Claims 5-10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Koster in view of Hendricks. Claims 5-10 depend from claim 1 as amended, and include the limitations of claim 1 as amended relating, in part, to a non-adhesive layer being formed of a material including at least one of sheet paper and sheet plastic. For at least the reasons described below, the cited references fail to teach or suggest such limitations.

Koster is not cited as providing such limitations and Hendricks fails to teach or suggest such limitations and, in fact, teaches away from such limitations. Hendricks

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specifically teaches use of a cover layer of synthetic foam 38 placed over adhesive layer 54. *Hendricks* at col. 2, ll. 58-62. According to *Hendricks*, foam pad 38 acts to cushion various items supported on package kit 24 so that items will not move against one another "to the same degree that mere packaging in a group would," thereby reducing damage to the items. *Hendricks* at col. 3, ll. 13-18. *Hendricks* also explicitly describes how foam pad 38 is integral to providing the desired adhesion characteristics described in *Hendricks*. In particular, *Hendricks* expressly states that "FIGURE 7 illustrates the manner of compression of the resilient pad around the area of the openings 40 to allow this adhesion, with the non-adhering overhang." *Hendricks* at col. 3, ll. 13-18 (emphasis added). "This adhesion" that foam pad 38 "allows" is described in the immediately preceding paragraph, i.e., "they will be adhered firmly enough to the supporting base sheet 32 that they will not fall freely from the kit. Nevertheless, a reasonable amount of directly applied force will cause the separation." *Hendricks* at col. 3, ll. 5-12. Thus, *Hendricks* expressly indicates that foam pad 38 "allows" package kit 24 to function in the manner described and according to *Hendricks*'s stated objectives. For at least such additional reasons, one having ordinary skill in the art would not be motivated to combine *Koster* with *Hendricks* to provide the limitations of independent claim 1 as amended as well as the claims depending therefrom.

In sum, claim 1 as amended and the claims depending directly or indirectly therefrom are believed to be patentably distinct from the cited references. It is respectfully requested that the rejection of claims 1-13, 25, and 26 be withdrawn with allowance of those claims and notice to that effect.

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Koster* in view of *Larson*. Claims 12 and 13 depend from claim 1 as amended. As previously clarified, claim 1 is patentably distinct from *Koster* and *Hendricks*. *Larson* does not cure the deficiencies in the prior art described above in association with claim 1 as amended. For example, *Larson* does not teach or suggest an exposed adhesive recessed relative to a non-adhesive layer as required by the limitations of claim 1 as

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amended. For at least such reasons, it is believed the rejection of claims 12 and 13 is traversed. Withdrawal of the rejection, allowance of those claims, and notice to that effect are respectfully requested.

Claims 15-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koster in view of Hendricks. It is believed, though not explicitly stated, that claim 14 has been treated in the Office Action as implicitly rejected under the same grounds. Claim 14 as amended relates, in part, to a consumer product display including a display strip and a plurality of consumer products. The display strip defines a front face and a back face which combine to form a lower section and an upper section. The display strip includes template strip and a carrier strip, a front face of the carrier strip being covered with an adhesive. The front face of the carrier strip is adhered to a back face of the template strip such that at least a portion of the adhesive remains exposed relative to a lower portion of the template strip to define discrete product affixing areas characterized by an exposed adhesive. Each of the discrete product affixing areas is substantially similarly sized and shaped. A plurality of consumer products are each separately and removably adhered to at least one discrete product affixing area via the exposed adhesive. For at least the reasons described below, the cited references fail to teach or suggest such limitations.

Koster does not teach or suggest a display strip including a template strip and a carrier strip, the carrier strip being covered with an adhesive. In particular, FIGS. 1-5 of Koster specifically teach adhesive 2 projecting outwardly from a single, monolithic backing layer 1. The Office Action cites a motivation for combining Koster with Hendricks as being able to "establish a peel strength that is less than a maximum force of a package as taught by Hendricks in order to permit easy separation from the display." *NFOA 12-29-2005* at pg. 4. However, it is unclear why one having ordinary skill in the art would be so motivated. In particular, Koster already shows adhesive 2 that has been sized to provide a desired adhesive force, i.e., as round dots corresponding to ends of rectangular boxes 5. In the absence of any motivation for

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doing so, it is unclear why Koster would add the additional structure as taught by Hendricks in order to accomplish a purpose it would appear that Koster already accomplishes.

Furthermore, Hendricks fails to teach or suggest and, in fact, teaches away from discrete product affixing areas characterized by an exposed adhesive, wherein each of the discrete products affixing areas is substantially similarly sized and shaped. In particular, with reference to FIG. 5 of Hendricks, for example, it can clearly be seen that Hendricks desires to affix a wide variety of different objects to the package kit 24. "For heavy items, which cannot be supported by the small openings thus remaining, a portion of the foam 38 may be removed in larger blocks indicated by reference character 42 in FIGURE 5." *Hendricks* at col. 2, ll. 63-66. As such, Hendricks teaches away from the limitations of claim 14 as amended relating to discrete product affixing areas characterized by an exposed adhesive, wherein each of the discrete product affixing areas is substantially similarly sized and shaped.

In sum, it is believed that claim 14 as amended, and therefore claims 15-24 depending therefrom, is patentably distinct from the cited references. As such, the rejection of claim 14 as amended is believed traversed. Withdrawal of the rejection of claims 14-24, allowance of those claims, and notice to that effect are respectfully requested.

The claims depending from claim 14 can also be further distinguished from the cited references. For example, claims 22 and 23 describe thicknesses of the template strip being from approximately 3.5 mils to approximately 4.5 mils thick, and approximately 4.5 mils thick, respectively. For at least the reasons described below, Hendricks fails to teach or suggest and, in fact, teaches away from such limitations.

In the rejection of claims 22 and 23, the Office Action indicates "the thickness of the template is not known[;] however, such a modification over any disclosure of Hendricks et al would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the

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art." *NFOA 12-29-05* at p. 5. However, Hendricks teaches away from the thicknesses of claims 22 and 23. With reference to Hendricks, it can be clarified that foam 38 specifically acts as a buffer between adhesive 34 and items maintained on package kit 24 as described by Hendricks. In particular, foam 38 must be sufficiently thick that a "multiplicity of items" can be adhered to a desired portion of package kit 24, but will not stick to other portions of package kit 24 when folded onto itself. See, e.g., *Hendricks* at col. 3, ll. 20-25 ("the base sheet 32 [is] folded into a compact package as shown in FIGURE 2, and then allowed to drop open as one end of the sheet is grasped."). Clearly then, there is no indication in Hendricks that thicknesses of from approximately 3.5 mils to approximately 4.5 mils or of approximately 4.5 mils, for example, would be acceptable. In fact, one having ordinary skill in the art would be taught away from such thicknesses according to the objectives and manner of operation that one having ordinary skill in the art would clearly understand Hendricks to describe. For at least such additional reasons, claims 22 and 23 are patentably distinct from the cited references and should be deemed allowable.

As another example, claim 21 relates, in part, a template strip formed of paper. Koster does not teach or suggest and, in fact, teaches away from a template strip as required by the limitations of claim 21 (and claim 14 from which claim 21 depends) as amended. As previously described in association with claims 1 and 14, the operation and stated objectives of Hendricks both mandate use of "a cover layer of synthetic foam 38" in direct contrast to paper, as required by the limitations of claim 21. See, e.g., *Hendricks* at col. 2, ll. 58-62; col. 3, ll. 5-18. As such, Hendricks fails to teach or suggest the limitations of claim 21 and, in fact, teaches away from the limitations of claim 21. For at least such additional reasons, claim 21 is patentably distinct from the cited references and should be deemed allowable.

Claim 37 is newly presented and relates, in part, to a display strip including a template strip defining a front face, a back face, an upper portion and a lower portion, the upper portion defining a hanging means. The hanging means includes a fold line

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formed in the upper section such that the upper section defines a leading free edge above the fold line. A first hole is formed in the upper section above the fold line. A second hole is formed in the upper section below the fold line. The display strip also includes a carrier strip defining a front face and a back face, the front face of the carrier strip being covered with an adhesive. The front face of the carrier strip is adhered to the back face of the template strip such that at least a portion of the adhesive remains exposed relative to the lower portion of the template strip to define an exposed adhesive. Additionally, the front face of the carrier strip is adhered to the back face of the template strip over the free edge of the upper section to secure the free edge against the back face of the template strip such that the first hole and the second hole in the upper section are substantially aligned. For at least the following reasons, claim 36 is presently allowable.

For example, Larson expressly forwards the use of staples 53, passing through flap 17, leaf 16, and panel 15. Indeed, Larson explicitly states that staples are superior to other fasteners. In particular, staples 53 are described in the arrangement shown to act "to protect the bag 50 (in the area through which the staples 53 extend) from tearing out when handled by a customer. Also this type of fastening is more substantial than the mere stapling of the bag to the front surface of a single thickness card. Moreover, by stapling the flap 17 and leaf 16 and panel 15 together, the strength of the finally assembled card is greatly increased." *Larson* at col. 3, ll. 57-69. Thus, rather than having a adhered to a back face of a template strip over a free edge of an upper section of a template strip to secure the free edge against the back face of the template strip, as required by the limitations of claim 37, Larson teaches use of staples 53. Indeed, not only would one having ordinary skill in the art view Larson's discussion of staples as failing to teach or suggest such limitations, one of ordinary skill would view Larson's description of a stapled structure having superior strength as teaching away from the limitations of claim 37. According to at least such demonstrative clarifications of Larson,

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claim 37 is presently allowable. Allowance of claim 37 and notice to that effect are respectfully requested.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-26 and 37 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-26 and 37 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.



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Any inquiry regarding this Amendment and Response should be directed to either John A. O'Toole at Telephone No. (763) 764-2422, Facsimile No. (763) 764-2268 or Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

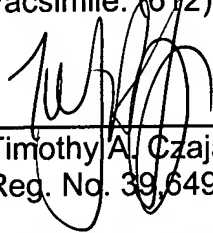
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**CERTIFICATE UNDER 37 C.F.R. 1.8:**

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29<sup>th</sup> day of March, 2006.

By: 

Name: Timothy A. Czaja